

### REMARKS

Claims 1-5 are pending in the application. These claims were rejected as follows:

Claims / Section	35 U.S.C. Sec.	References / Notes
1-3, 5	§102(e) Anticipation	<ul style="list-style-type: none"><li>• Timm, et al. (U.S. Patent No. 6,055,268).</li></ul>
4	§103(a) Obviousness	<ul style="list-style-type: none"><li>• Timm, et al. (U.S. Patent No. 6,055,268); and</li><li>• Saito, Dynamic Resource Allocation in ATM Networks.</li></ul>

5           Applicant has amended claim 1 to correct minor typographical errors and provided discussion for distinguishing the claims from the art cited against it.

#### 35 U.S.C. §102(e), CLAIMS 1-3, 5 ANTICIPATION BY TIMM

1. *Timm fails to teach the dynamic reconfiguration of an xDSL link, but rather describes a negotiation of a bit rate prior to the establishment of an xDSL*  
10 *link.*

15           In the OA, in the carryover paragraph on pp. 2-3, the Examiner states, [Timm] teaches supplying control data to an interface between an application level and physical transmission with which an xDSL link can be dynamically reconfigured (Fig. 7a and col. 22, lines 18-67, col. 23, lines 1-57). The reference also teaches the dynamic reconfiguration taking place by evaluation of protocols in xDSL method as the reference uses the point-to-point (PPP link control protocol for exchanging line connection management  
20           messages (col. 7, lines 28-31).

Applicant respectfully disagrees with this characterization. Timm discloses a method as to how the transfer rate of data can be variably changed

in the participant termination region between a location switching site and participant. The magnitude of this change shifts up to 400 Kbit/s given the transfer from the participant to the net (upstream) and between 400 Kbit/s and 2.048 Mbit/sec given the transfer from the net to the participant (downstream)

5 (column 6, lines 54 through 67).

The change ensues via insertion of a new negotiation method (column 6, line 11) according to which the transfer rate can be changed according to the requirement of the line conditions, the end device (computational capabilities) of the net access, and application requirements. However, as these negotiation

10 methods are always fashioned, the core of Timm's disclosure is that these negotiation methods always ensue before the beginning of the data transmission, thus, for example, before or as part of the connection establishment (column 5, lines 66, 67), and not once the xDSL link has been established. Timm's claim 1

also gives a clear indication of this (see 1(f), "then [after rate negotiation has

15 ensued] commencing non-rate negotiation communication between said first and second modems at the accepted negotiation rate...". The transfer rate is selected once and the preferred direction selected once can then, however, no longer be changed during the existence of the connection. The disclosure is this to be considered as prior art from which the present invention originates.

20 In contrast to this, the present patent application has the goal to remedy precisely this problem that, even in this prior art, a flexible change, let alone a change of the preferred direction selected once, cannot be effected during an existing connection (see Abstract, Substitute Specification 3/5-7). This ensues

via evaluation of the protocols during an existing connection. Since an interface is provided between application layer and the physical transfer, a reconfiguration can ensue during the existing connection as a result of the evaluation. The term "reconfiguration" means that the predetermined preferred direction can be  
5 completely changed. Since the "dynamic reconfiguration" according to claim 1 clearly occurs with respect to an (established/existing) xDSL link, and not just during protocol used to establish such a link, the inventive features cannot be learned from the disclosure content according to Timm.

For these reasons, the Applicant asserts that the claim language clearly  
10 distinguishes over the prior art, and respectfully request that the Examiner withdraw the §102 rejection from the present application.

**35 U.S.C. §103(a), CLAIM 4 OBVIOUSNESS IN VIEW OF TIMM AND SAITO**

*2. Applicant relies on the above arguments and asserts that Saito similarly fails to teach the dynamic reconfiguration of an xDSL link.*

15 Applicant relies on the discussion above and notes that the Examiner cites Saito as disclosing the feature of the RM cells of ABR traffic providing the control data, a feature of the dependent claim.

Applicant respectfully requests that the Examiner withdraw the §103 rejection from the present application.

20 **CONCLUSION**

Inasmuch as each of the objections have been overcome by the amendments, and all of the Examiner's suggestions and requirements have been satisfied, it is respectfully requested that the present application be reconsidered,

the rejections be withdrawn and that a timely Notice of Allowance be issued in  
this case.

Respectfully submitted,

Mark Bergner (Reg. No. 45,877)

Mark Bergner  
SCHIFF HARDIN, LLP  
PATENT DEPARTMENT  
6600 Sears Tower  
Chicago, Illinois 60606-6473  
(312) 258-5779  
Attorney for Applicants  
Customer Number 26574

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Mark Bergner  
Mark Bergner Attorney for Applicants